

**To:** CN=Erin Foresman/OU=R9/O=USEPA/C=US@EPA;CN=Tom Hagler/OU=R9/O=USEPA/C=US@EPA[]; N=Tom Hagler/OU=R9/O=USEPA/C=US@EPA[]  
**From:** CN=Karen Schwinn/OU=R9/O=USEPA/C=US  
**Sent:** Thur 5/12/2011 3:43:19 PM  
**Subject:** Draft email to BDCP lead fed agencies on potential alternatives  
<http://www.epa.gov/region9/water/watershed/sfbay-delta/index.html>  
<http://per2.nwp.usace.army.mil/survey.html>  
<http://www.spk.usace.army.mil/organizations/cespk-co/regulatory/index.html>  
<mailto:Foresman.Erin@epamail.epa.gov>  
<http://www.epa.gov/region9/water/watershed/sfbay-delta/index.html>  
<http://per2.nwp.usace.army.mil/survey.html>  
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<http://www.spk.usace.army.mil/organizations/cespk-co/regulatory/index.html>  
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I'm ok with that but I wish they had figured that out before you guys spent all this time, at Nepstad's request. Let's see what they write.

From: Erin Foresman  
Sent: 05/12/2011 08:26 AM PDT  
To: Tom Hagler; Karen Schwinn  
Subject: FW: Draft email to BDCP lead fed agencies on potential alternatives

See email below from M. Jewell. I think he is in a meeting now. Sorry didn't forward yesterday, it was sent to my Corps email address. I'm at my desk, let me know what you think,  
Erin

\*\*\*\*\*

Erin Foresman  
Environmental Scientist & Policy Coordinator,  
US EPA Region 9 C/O Army Corps of Engineers  
650 Capitol Mall Suite 5-200, Sacramento, CA 95814  
Phone: (916) 557 5253, Fax: (916) 557 6877

<http://www.epa.gov/region9/water/watershed/sfbay-delta/index.html>

-----Forwarded by Erin Foresman/R9/USEPA/US on 05/12/2011 08:24AM -----

To: Erin Foresman/R9/USEPA/US@EPA  
From: "Nepstad, Michael G SPK" <Michael.G.Nepstad@usace.army.mil>  
Date: 05/12/2011 08:15AM  
Subject: FW: Draft email to BDCP lead fed agencies on potential alternatives

Michael G. Nepstad

Deputy Chief, Regulatory Division  
US Army Corps of Engineers, Sacramento District  
650 Capitol Mall, Suite 5-200  
Sacramento, California 95814  
(916) 557-7262 Fax:(916) 557-6877  
michael.g.nepstad@usace.army.mil

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-----Original Message-----

From: Jewell, Michael S SPK  
Sent: Wednesday, May 11, 2011 5:38 PM  
To: Foresman, Erin L SPK  
Cc: Nepstad, Michael G SPK  
Subject: FW: Draft email to BDCP lead fed agencies on potential alternatives

Erin:

Thanks for providing the draft email. Mike and I both looked at it and have commented. Based on our convo on Monday, it is my understanding that this will be sent as an email, not a letter, from Karen.

What I'd like to do at this point is send separate emails from our agencies, reflecting our distinct roles/responsibilities. Mike will draft an email for me to send that will be based on/consistent with the thoughts in Karen's email. Although I appreciate the prose and details in your draft email, mine will likely be a bit shorter and come from a slightly different perspective.

Sound ok?

Michael S Jewell  
Chief, Regulatory Division  
US Army Corps of Engineers, Sacramento District

-----Original Message-----

From: Foresman.Erin@epamail.epa.gov [mailto:Foresman.Erin@epamail.epa.gov]  
Sent: Wednesday, May 11, 2011 9:07 AM  
To: Jewell, Michael S SPK; Nepstad, Michael G SPK  
Cc: Hagler.Tom@epamail.epa.gov; Schwinn.Karen@epamail.epa.gov  
Subject: Draft email to BDCP lead fed agencies on potential alternatives

Hi Mike and Mike,

Attached is an email Tom, Karen, and I drafted to follow-up last Friday's DOI update on the BDCP Executive Committee's discussion about alternatives. We tried to cover all of Mike N's points in his May 6 email, pasted below, address Mike J's thoughts, and include EPA point of view.

I'm in the office today until 2 PM and here the rest of the week. Let me know what you think by email, phone, in person, whatever works for you best.

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Erin Foresman  
Environmental Scientist & Policy Coordinator, US EPA Region 9 C/O Army Corps  
of Engineers 650 Capitol Mall Suite 5-200, Sacramento, CA 95814  
Phone: (916) 557 5253, Fax: (916) 557 6877

<http://www.epa.gov/region9/water/watershed/sfbay-delta/index.html>

-----Forwarded by Erin Foresman/R9/USEPA/US on 05/11/2011 09:03AM -----

To: Karen Schwinn/R9/USEPA/US@EPA, Erin Foresman/R9/USEPA/US@EPA  
From: "Nepstad, Michael G SPK" <Michael.G.Nepstad@usace.army.mil>  
Date: 05/06/2011 09:04AM  
Subject: FW: BDCP EIS Alternatives

Here's my thoughts:

State and Lead federal Agencies want to finalize the alternatives in the BDCP EIS on May 19th.

This means the following:

- 1) The NEPA/404 integration MOU which I haven't even drafted yet is now totally moot. The purpose of such a MOU is to ensure the NEPA document has the alternatives analysis needed to provide NEPA coverage for the Corps permitting action. In our High Speed Train MOU, the only steps left after the alternatives have been selected is to process our permit application; all corps involvement in the EIS is done at that point.
- 2) Any additional alternatives I would be likely to ask be in the NEPA document would be those which appeared likely to reduce impacts of the proposed alternative, which seemed likely to be a potential LEDPA,

which  
were outside the range of alternatives (operationally or footprint)  
of the  
current alternatives, and/or were unique enough that it merited its  
own  
description in the NEPA document. Since they haven't provided a  
description  
of the proposed project for permitting, any level of description or  
analysis  
of impacts (operationally or footprint), and a description of the  
present  
range of alternatives, it's really not possible to know if  
additional  
alternatives or sub-alternatives need to be in the EIS or not.

3) I have no idea who is on the executive committee (agencies and  
individuals) and I do not know what gives them their authority. I  
do know  
that the Corps is not on the executive committee and the Corps has  
not  
delegated any of its regulatory responsibilities to any other  
agency, party  
or person.

4) I don't want the Corps to agree to anything for May 19th. If the  
State  
and Lead federal Agencies decide on things which work for them, and  
those  
decisions are later shown not to work for the Corps, then there's  
going to  
be delays and re-do's, because it has to meet the Corps needs for us  
to be  
able to use the EIS.

I now am also concerned that the State and Lead federal Agencies are  
really  
saying that they are done with their range of analysis for any  
purpose and  
are going to expect that all Corps permit decisions will be based  
solely on  
their analysis with no additional considerations of changes or new  
alternatives for LEDPA, etc.

Should we write a joint letter that "We have not been provided the  
time and  
the level of detail to determine, under NEPA and the Clean Water  
Act, the  
adequacy of alternatives finalized by the 'executive committee'  
consisting  
of State and Lead federal Agencies." Or perhaps we should just tell  
Nawi?

I really don't see a point to a briefing by Reclamation since they  
have no

detail to provide.

Michael G. Nepstad  
Deputy Chief, Regulatory Division  
US Army Corps of Engineers, Sacramento District  
650 Capitol Mall, Suite 5-200  
Sacramento, California 95814  
(916) 557-7262 Fax:(916) 557-6877  
michael.g.nepstad@usace.army.mil

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